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SUBJECT: EARLY RADA ELECTION TO FOLLOW PRESIDENTIAL VOTE?

Classified By: Acting Political Counselor Kirk Bennett for reasons 1.4(b,d)

SUMMARY

1. (C) President Yushchenko and leading presidential candidates are calling for early parliamentary elections to quickly follow the January 17 Presidential contest. Opposition leader and presidential front-runner Yanukovych believes that early Rada elections could swing control of parliament to his Party of Regions. President Yushchenko hopes to pressure the Rada into passing his new draft constitution with the threat of early elections, while other candidates may hope that early elections allow them to enter parliament at the head of new electoral blocs. Prime Minister Tymoshenko has vowed to try and block early elections, but acknowledges that they are still likely to occur. The Ukrainian constitution provides the President with only four justifications for dissolving the Rada, all of which a new president may struggle to engineer. End Summary.

PRESIDENTIAL CANDIDATES CALL FOR EARLY RADA ELECTIONS

2. (U) Presidential front-runner and opposition Party of Regions leader Viktor Yanukovych is calling for early parliamentary elections to follow the January presidential vote. Yanukovych said that a new majority coalition led by Party of Regions (Regions) in the Rada and a new Regions Prime Minister are needed to ensure stability and the success of his policies. Regions Deputy Faction head Borys Kolesnykov claimed in a recent press conference that the momentum of a Yanukovych presidential victory could propel Regions to an outright majority if early Rada elections are called in the spring.

3. (U) President Yushchenko is also calling for early parliamentary elections to be held next year. During his re-election campaign kick off, Yushchenko vowed to dissolve the Rada if it refused to adopt his new draft constitution within 100 days. Although Yushchenko's deadline would fall in or after the last days of his term, the President explained that early Rada elections could also include a nationwide referendum on his proposed new constitution. Passage of a new constitution is a key plank in Yushchenko's election platform.

4. (U) Presidential candidates Arseniy Yatsenyuk, currently in a distant third place, and Serhiy Tihipko have both said that they would immediately dissolve the Rada if they win the presidential election. Yatsenyuk said that his victory would be a vote of no-confidence in the current government and Rada, which he described as a "closed joint-stock company." Yatsenyuk promised that early elections would be held with open-party lists, to ensure that voters had a say in which representatives within parties gained seats in the new parliament. Tihipko said that early elections would allow new political leaders to emerge and end the domination of

Ukrainian politics by Yanukovych, Yushchenko, and Prime Minister Tymoshenko.

PM AGAINST EARLY ELECTIONS, BUT SAYS THEY ARE "LIKELY"

15. (C) Prime Minister Tymoshenko has promised to do what she can to prevent early elections, but conceded in a recent press appearance that she may be unable to stop them. Our Ukraine-People's Self Defense (OU-PSD) MP Roman Zvarych, a former Yushchenko confidant who has now joined Tymoshenko's Batkivshchyna Party, told us that if Tymoshenko wins the presidential election, there would be no early parliamentary election. He explained that OU-PSD and Rada Speaker Lytvyn's bloc would stick with Tymoshenko's bloc (BYuT) to hold together the current coalition. OU-PSD and Lytvyn bloc risk not returning to parliament if new elections were held, and would prefer the status quo to the challenge of a new campaign. Zvarych said that early elections would only benefit Regions, which believes it can increase its share of Rada seats, and presidential candidates Yatsenyuk and Tihipko, who have a chance to enter parliament at the head of small parties under their leadership.

16. (C) Pro-coalition OU-PSD MP Kyryllo Kulykov told us that a Tymoshenko victory would probably not precipitate early elections. He believes that a large number of Regions MPs, those closest to Ukrainian oligarch Rinat Akhmetov, would be willing to work closely with a President Tymoshenko. Kulykov said that this would buttress her effort to keep the current coalition together and dissuade smaller parties from

KYIV 00002116 002 OF 002

defecting from the majority. He said this cushion of votes would be especially important when the coalition would have to choose a new Prime Minister and cabinet. According to the law on the Cabinet of Ministers, the entire cabinet must resign if the PM resigns. Kulykov theorized that Tymoshenko might be willing to back a PM candidate from Regions, such as MP Andriy Kluyev, in return for the stability that the break-away faction of Regions could bring the coalition.

EARLY ELECTIONS FACE PROCEDURAL, LEGAL HURDLES

17. (U) The Ukrainian Constitution only allows the President to dissolve the Rada for four reasons, the first three of which are governed by Article 90. First, the failure to form a new majority coalition within thirty days of the fall of the previous coalition, or following elections. Second, the failure of a new coalition to form a new cabinet within sixty days of the resignation of the previous cabinet or after a new majority coalition is formed in the Rada. Third, the Rada can be dissolved if it fails to hold a single plenary meeting for thirty days during a regularly scheduled plenary session. In each of these scenarios the President has the right, but is not obligated, to dissolve the parliament and call for early elections. The Constitution empowers only the President to dissolve the Rada, and does not make provision for parliament to dismiss itself.

18. (C) The final justification for Rada dissolution is contained in Article 82, in that at least 300 MPs must accept their parliamentary mandate for the Rada to be legitimate. The early Rada election in 2007 was precipitated by the mass resignation of pro-Western MPs and the withdrawal of their election lists from the Central Election Commission (CEC), which prevented the vacated seats from being refilled. MP Zvarych told us that after that 2007 election, the laws and regulations governing election lists and MP resignations were changed to make it more difficult to repeat this maneuver. He said that now each MP resignation must be accepted by the Rada in a floor vote, and that parties could no longer withdraw their election lists from the CEC.

COMMENT

19. (C) Whoever wins Ukraine's presidency will struggle to find a legal justification to dissolve the Rada without the backing of a majority of MPs. If Tymoshenko becomes President she will be well-positioned to prevent early parliamentary elections, regardless of what Rada leaders decide.

TEFFT